

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CAPELLA PHOTONICS, INC.,

Plaintiff

v.

INFINERA CORPORATION, TELLABS,
INC., TELLABS OPERATIONS INC.,
CORIANT AMERICA INC., and CORIANT
(USA) INC.,

Defendants.

Civ. No. 2:20-cv-00077

DECLARATION OF MELISSA MUENKS

I, Melissa Muenks, hereby declare as follows:

1. I am an attorney at the law firm of Baker Botts L.L.P. and am counsel for Defendants Infinera Corporation, Tellabs, Inc. Tellabs Operations, Inc., Coriant America, Inc., and Coriant (USA), Inc. (collectively, “Infinera” or Defendants”) in this lawsuit. I respectfully submit this declaration in support of Infinera’s *Daubert* Motion to Exclude the Damages-Related Opinions Offered by David Teece and Wayne Knox. I declare that the following statements are true to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances.

2. Attached as **Exhibit A [FILED UNDER SEAL]** hereto is a true and correct copy of excerpts of the Expert Report of Professor David Teece, dated March 15, 2021.

3. Attached as **Exhibit B [FILED UNDER SEAL]** hereto is a true and correct copy of excerpts of the deposition transcript of Dr. David Teece, dated April 16, 2021, highlighted for the Court's convenience.

4. Attached as **Exhibit C [FILED UNDER SEAL]** hereto is a true and correct copy of excerpts of the Expert Report of Dr. Wayne H. Knox Regarding Infringement by Infinera Corporation, Tellabs, Inc., Tellabs Operations Inc., Coriant America Inc., and Coriant (USA) Inc., dated March 15, 2021.

5. Attached as **Exhibit D [FILED UNDER SEAL]** hereto is a true and correct copy of excerpts of the rough deposition transcript of Dr. Wayne Knox, dated April 19, 2021, highlighted for the Court's convenience.

6. Attached as **Exhibit E [FILED UNDER SEAL]** hereto is a true and correct copy of the document bearing bates CAP_INFINERA_0005249-281, entitled "License and Technical Assistance Agreement," and dated September 1, 2006..

7. Attached as **Exhibit F** [REDACTED] hereto is a true and correct copy of a letter from Claire Henry, counsel for Capella, to Kurt Pankratz, counsel for Infinera, dated July 10, 2020.

8. Attached as **Exhibit G** [REDACTED] hereto is a true and correct copy of a letter from Robert Becker, counsel for Capella, to Sarah Guske, counsel for Infinera, dated August 7, 2020.

9. Attached as **Exhibit H** [REDACTED] hereto is a true and correct copy of Capella's first set of interrogatories to Infinera, entitled "Plaintiff Capella Photonics, Inc.'s First Set of Interrogatories (1-6) (Venue) to Defendants," and dated July 10, 2020.

10. Attached as **Exhibit I** [REDACTED] hereto is a true and correct copy of Capella's second set of interrogatories to Infinera, entitled "Plaintiff Capella Photonics, Inc.'s Second Set of Interrogatories (7-15) to Defendants," and dated July 10, 2020.

11. Attached as **Exhibit J** [REDACTED] hereto is a true and correct copy of Capella's third set of interrogatories to Infinera, entitled "Plaintiff Capella Photonics, Inc.'s Second Set of Interrogatories to Defendant[s]," and dated October 9, 2020.

12. Attached as **Exhibit K** [REDACTED] hereto is a true and correct copy of Capella's fourth set of interrogatories to Infinera, entitled "Plaintiff Capella Photonics, Inc.'s Third Set of Interrogatories to Defendant[s]," and dated December 11, 2020.

13. Attached as **Exhibit L [FILED UNDER SEAL]** hereto is a true and correct copy of Capella's fifth set of interrogatories to Infinera, entitled "Plaintiff Capella Photonics, Inc.'s Fourth Set of Interrogatories to Defendants," and dated December 14, 2020.

14. Attached as **Exhibit M [FILED UNDER SEAL]** hereto is a true and correct copy of Capella's sixth set of interrogatories to Infinera, entitled "Plaintiff Capella Photonics, Inc.'s Fifth Set of Interrogatories to Defendants," and dated December 19, 2020.

15. Attached as **Exhibit N** [REDACTED] hereto is a true and correct copy of excerpts of Plaintiff Capella Photonics, Inc.'s Objections and Responses to Defendants' First Set of Interrogatories (Nos. 1-20), dated November 9, 2020.

16. Attached as **Exhibit O [FILED UNDER SEAL]** hereto is a true and correct copy of Plaintiff's Notice of Subpoena and Subpoena Duces Tecum and Ad Testificandum to [REDACTED], dated December 1, 2020.

17. Attached as **Exhibit P [FILED UNDER SEAL]** hereto is a true and correct copy of Plaintiff's Notice of Subpoena and Subpoena Duces Tecum and Ad Testificandum to [REDACTED] [REDACTED], dated December 1, 2020.

18. Attached as **Exhibit Q [FILED UNDER SEAL]** hereto is a true and correct copy of Plaintiff's Notice of Subpoena and Subpoena Duces Tecum and Ad Testificandum to [REDACTED] dated December 1, 2020.

19. Attached as **Exhibit R [FILED UNDER SEAL]** hereto is a true and correct copy of Plaintiff's Notice of Subpoena and Subpoena Duces Tecum and Ad Testificandum to [REDACTED] [REDACTED], dated December 1, 2020.

20. Attached as **Exhibit S [FILED UNDER SEAL]** hereto is a true and correct copy of excerpts of the deposition transcript of Brian Nagle, dated March 12, 2021, highlighted for the Court's convenience.

21. Attached as **Exhibit T [FILED UNDER SEAL]** hereto is a true and correct copy of excerpts of the deposition transcript of Jianwei Guo, dated August 18, 2020, highlighted for the Court's convenience.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 26, 2021

Respectfully submitted,

/s/ Melissa Muenks
Melissa Muenks

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via email per Local Rule CV-5 on April 26, 2021.

By: */s/ Melissa Muenks*
Melissa Muenks